



WISCONSIN

DEPARTMENT OF WORKFORCE DEVELOPMENT

Division of Economic Support
Bureau of Welfare Initiatives

**TO: Economic Support Supervisors
Economic Support Lead Workers
Training Staff
FSET Administrative and Provider Agencies
Child Care Coordinators
W-2 Agencies**

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Non W-2 ☒ W-2 ☐ CC ☐

PRIORITY: Medium

SUBJECT: WFDA MASTER TRUST - PRENEED FUNERAL CONTRACT

CROSS REFERENCE: Medical Assistance Handbook, Appendix 11.4.0.
Other Programs Manual, Chapter 7
*NOTE: This chapter will soon be moved to Chapter VIII of the **Income Maintenance Manual**.

EFFECTIVE DATE: 05/01/99

PURPOSE

This memo describes how to treat the new Wisconsin Funeral Directors Association (WFDA) master trust agreement in determining Medical Assistance (Medicaid) (MA) eligibility.

BACKGROUND

On May 1, 1999, the WFDA began its Wisconsin Funeral Trust Program. The Wisconsin Funeral Trust is a single trust owned and operated by WFDA; it was established and is maintained according to the rules of the Wisconsin Department of Financial Institutions. It is available for use by all WFDA members statewide. Funds placed in the Trust will be invested in accordance with applicable state law.

To administer this program, WFDA has created 2 new preneed funeral contracts; one is for a guaranteed price and another for a non-guaranteed price. WFDA consulted with, among others, DHFS/Division of Health Care Financing and DWD/Division of Economic Support while preparing these forms. Copies of the documents are attached.

Contracts

The different versions of the trust contracts are identified on the binding at the top of the forms and by the shaded area at the top of the form, just to the right of the funeral home's name. Each version consists of 3 pages in 2 carbonless "sets". For a particular contract, the sets will have matching red serial numbers

(upper right corner). Page 1 is the first page of the first set; page 2 is the reverse of that same page; the last page, page 3, is the first page of the second set.

These contracts are available to all individuals, not just those who are or may be Medical Assistance applicants.

Guaranteed vs. Non-Guaranteed

Primary differences between the guaranteed and non-guaranteed contracts are shown in items 3 and 5 on page 2 of each contract.

MA Estate Recovery

WFDA has instructed its members in its **Administrative Manual** that, by law, excess funds in a non-guaranteed trust account for MA recipients must be returned to the Estate Recovery Program (ERP). The funeral director is advised to inform families of this requirement. The funeral home will issue a check payable to the estate of the deceased. The deceased's family is responsible for then returning that money to the ERP.

Note, however, that there will be no excess when a guaranteed trust contract is used. By guaranteeing the funeral price through a guaranteed trust, the funeral director is able to retain all funds in the trust and, therefore, there is no excess.

General Policy

This agreement by the purchaser with the funeral home constitutes a purchase, even if revocable in whole or part. The contract is **not**:

1. An installment burial contract.
2. An insurance funded burial contract (**MAH 11.4.3**).
3. Divestment as the funds transferred are in exchange for equal amounts of goods and/or services.

The contract nearly always includes burial spaces (**MAH 11.4.1 and 11.4.4**). Burial spaces are excluded assets and contracts for burial spaces are excluded assets.

In determining countable asset value:

1. Deduct first the amount identified as irrevocable under Wisconsin law [§ 445.125(1)(a)] (**MAH 11.4.2**).
2. Deduct next the amount equal to the value of all burial spaces purchased by this contract (**MAH 11.4.1 and 11.4.4**). Remember that "burial spaces" includes caskets and outer burial containers (vaults, liners, and other containers into which the casket is placed) listed in item IV, "Merchandise".
3. Deduct any amount that can be included in the applicant's/recipient's burial fund (**MAH 11.4.5**).
4. The remainder is the amount of countable MA asset.

Total Contract Value	
<u>Less Amount Designated as Irrevocable</u>	
Sum	X
<u>Less Value of Excluded Burial Spaces</u>	
Sum	Y
<u>Less Amount Excluded Burial Funds</u>	
Balance is Countable MA Asset	

Example	Total Contract Value	=	\$ 4,200.00
#1:	Amount Designated as Irrevocable	=	-- 2,000.00

			\$ 2,200.00
	Value of Excluded Burial Spaces	=	-- 1,300.00

			900.00
	Amount of Excluded Burial Fun	=	-- 0.00 ¹

	Countable Assets	=	900.00

¹ The amount of funds that may be excluded as the \$1,500 "burial fund" is reduced by any amount of cash value in his/her life insurance and the amount of irrevocable burial trust. Whenever the burial contract specifies \$1,500 or more as irrevocable, no funds can be excluded as "burial fund".

Example	Total Contract Value	=	\$ 4,200.00
#2:	Amount Designated as Irrevocable	=	-- 1,300.00

			\$ 2,900.00
	Value of Excluded Burial Spaces	=	-- 1,300.00

			1,600.00
	Amount of Excluded Burial Fund	=	-- 200.00 ²

	Countable Assets	=	1,400.00

² This example assumes the person has not identified any other insurance or irrevocable burial funds toward his/her "burial fund". \$1,500 maximum burial fund allowance, less the \$1,300 this contract makes irrevocable, leaves room for an additional \$200 to be allocated to the "burial fund". Note that in the first example, the purchaser was able to achieve a higher exemption.

Statement of Funeral Goods and Services

The US Federal Trade Commission (FTC) requires funeral directors nationwide to use a "Statement of Funeral Goods and Services" as a way of indicating to their customers what is being purchased and their charges. The form looks a great deal like the first page of the WFDA preneed funeral contract. WFDA has advised their members to complete and provide to the family a copy of the Statement of Funeral Goods and Services along with the preneed funeral contract as a service to their customers and in compliance with FTC rules.

Cash Advances

On both the WFDA preneed funeral contract and the FTC's Statement of Funeral Goods and Services is an area called "Cash Advance Items". These are expenses for services and goods not provided by the funeral home but often related to the funeral.

Usually, the funeral home asks the purchaser/family to reimburse it dollar-for-dollar equal to what was advanced. A funeral home can, however, charge additional sums for their service in making cash advances in behalf of the deceased's family. For example, a funeral home may advance a \$ 175.00 payment for an obituary charge to the local newspaper; when billing the family, the funeral home adds a \$ 20.00 service fee for a total of \$ 195.00. By FTC rule, whenever the funeral home bills for more than the actual amount of the cash advance, it must identify this to the purchaser/family with a standard phrase added to the Statement of Funeral Goods and Services; the phrase is "We charge you for our services in obtaining...". This phrase appears on the WFDA preneed agreement and comes into effect whenever the small box to the left of each line under "Cash Advance Item" is marked.

Medical Assistance (MA) Eligibility

Amounts identified on a preneed agreement under “Cash Advances Items” are not disregarded and are part of the “Total Contract Value” in your asset calculations (see the formula above) for MA. This is true whether there is an additional charge on the cash advance item or not.

*Funeral and Cemetery Reimbursements (See **Other Programs Manual**, Chapter 7)*

When determining whether you can reimburse a funeral home for funeral expenses use the following policy. **This policy differs from the way you treat cash advances for determining MA eligibility.**

When the funeral home requests the family to reimburse it for cash advances in the same amount as the advance was made (no service charge is made), do **not** count the advance toward the \$ 3,500 funeral cap.

If the funeral home **does** charge for its services, add those cash advances (the cash advance plus service charge) to the other funeral expenses when measuring the total funeral expenses against the \$ 3,500 funeral expense cap.

You may request a copy of the Statement of Funeral Goods and Services to determine eligibility for the reimbursement. If there are service charges, the FTC phrase will appear on the Statement.